



CITY COUNCIL AGENDA REPORT

Meeting Date: December 9, 2021

From: Director of Public Works/City Engineer

Subject: Conveyance of Sewer Easement

Community Goal/Result

Ecological Sustainability

Purpose

Permitting this easement across city owned property will allow the uphill neighbors to install a gravity sewer line rather than having to install a pump up system to deliver their sewage to the public main in Humboldt Road. When there are no other options, downhill homeowners typically have to install sewage pump systems to connect to the public main, notwithstanding the occasional power outage that can render the system inoperable unless backup battery power is provided. A gravity sewer system is always the preferred engineering approach to discharging sanitary and storm sewer.

Recommendation

Approve the attached Sanitary Sewer Easement Agreement and Resolution No. 2021-77, "Conveying an Easement to Priouz Daftarian and Tara Daftarian."

Background

The City owns property halfway up the "paper street" of Lassen Drive identified as APN 007-313-120. The Daftarians own and are developing contiguous property at 303 Humboldt, identified as APN 007-313-140. (The properties' locations can be seen in Exhibit B of any of the attachments.) The Daftarians have requested a sanitary sewer easement through city property, so they may gravity flow their sewage directly to the city collection line in Lassen Drive.

Discussion

As noted above, the gravity sewer system is always preferred over an electrically powered mechanical system. There are no planned uses of the city's undeveloped parcel. Nonetheless, the agreement prepared by the City Attorney does include an obligation to relocate and/or remove the sewer line if the city develops a proposed use inconsistent with the location or presence of the sewer line.

Fiscal Impact

None. There is no exchange of money as a result of this conveyance.

Measure of Success

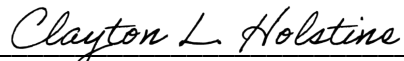
An opportunity to install the preferred engineering approach for the discharge of sanitary sewer.

Attachments

1. Sanitary Sewer Easement Agreement
2. Resolution No. 2021-77
3. Easement Deed



Randy Breault, Public Works Director



Clay Holstine, City Manager

Recording Requested by and
When Recorded Return to:

City of Brisbane
50 Park Place
Brisbane, CA 94005

Space Above for Recorder's Use

SANITARY SEWER EASEMENT AGREEMENT

This Sanitary Sewer Easement Agreement (“Agreement”) is entered into as of _____, 2021, between the City of Brisbane (“City”) and Pirouz Daftarian and Tara Daftarian (“Property Owners”).

WHEREAS, Property Owners are the owner of certain, land-locked real property located at 303 Humboldt Road, Brisbane, San Mateo County, California (the “Property”).

WHEREAS, City is the owner of vacant real property located immediately adjacent to the Property (“the City Property”).

WHEREAS, Property Owners have requested the City to grant to it an easement for sanitary sewer purposes on the City Property.

WHEREAS, the City’s providing an easement on the City Property for the benefit of the Property Owners and the Property will not interfere with any existing use of the City Property.

NOW, THEREFORE, in consideration of the benefit received by the Property Owners as a result of the City’s granting an easement on the City Property to the Property Owners, Property Owners and City covenant and agree as follows:

SECTION 1: GRANT OF EASEMENT

On the City Property, City hereby grants to Property Owners a non-exclusive, sanitary sewer easement as more particularly described in Exhibit “A” attached hereto and made a part hereof, and depicted on Exhibit “B” attached hereto and made a part hereof (the “Easement”). The Easement shall consist of an area of approximately 1001 square feet.

SECTION 2: OBLIGATION TO CONSTRUCT SEWER LINE

Property Owners shall construct, at its expense, the sewer line in strict accordance with the approved plans and specifications identified for the sewer line and with any other requirements thereto which have been approved by the City in conformance with

appropriate state laws and regulations, City ordinances, guidelines and other written direction.

SECTION 3: OBLIGATION TO MAINTAIN AND REPAIR SEWER LINE

This Agreement shall serve as the signed statement by Property Owners that they accept responsibility for the construction, maintenance, and repair of the sewer line required by this Agreement. If the City Property is sold, conveyed or otherwise transferred, such transfer shall be subject to this Agreement which shall apply to, bind and be obligatory to all present and subsequent owners and/or lessees of the Property.

SECTION 4: OBLIGATION TO RELOCATE AND/OR REMOVE THE SEWER LINE

If in the future City determines in its sole discretion that the sewer line unreasonably interferes with the City's proposed use of the City Property, Property Owners shall immediately relocate the sewer line to a different location on the City Property (if such is acceptable to the City) and/or remove the sewer line from the City Property and amend (if the line in the City's sole discretion may be relocated to another location on the City Property) or terminate (if the sewer line must be removed entirely from the City Property) this Agreement.

SECTION 5: BINDING EFFECT

This grant of easement and the provisions contained herein concerning the sanitary sewer easement shall be binding upon the Property Owners and their respective successors, assigns, and representatives.

SECTION 6: FAILURE TO MAINTAIN, REPAIR, RELOCATE OR REMOVE THE SEWER LINE

If Property Owners fail to maintain or repair the sewer line as provided in Section 3 of this Agreement, or fail to relocate and/or remove the sewer line as provided in Section 4 of this Agreement, the City, its authorized agents and employees, may, with reasonable notice to the Property Owner, take whatever steps it deems necessary and appropriate to repair, maintain, relocate and/or remove the sewer line. Such notice will not be necessary if emergency conditions require immediate remedial action. It is expressly understood and agreed that the City is under no obligation to maintain, repair, relocate or remove the sewer line and in no event shall this Agreement be construed to impose any such obligation on the City.

SECTION 7: REIMBURSEMENT OF CITY EXPENDITURES

In the event the City, pursuant to this Agreement, performs work or any actions authorized by this Agreement to repair, maintain, relocate or remove the sewer line, or expends any funds in the performance of said work for labor, use of equipment, supplies, or materials, the City shall provide an invoice of its costs and Property Owners shall reimburse the City within thirty (30) calendar days of receipt thereof. If these costs are not paid within the prescribed time period, the City may assess the Property Owners for the cost of the work. Said assessment shall be a lien against the Property and shall be placed on the property tax bill and collected as ordinary taxes by the City. The actions described in this section are in addition to and not in lieu of any and all legal remedies as provided by law,

available to the City as a result of the Property Owners' failure to repair, maintain, relocate or remove the sewer line.

SECTION 8: INDEMNIFICATION

Property Owners shall indemnify, hold harmless and defend the City, the City Council and its boards and commissions, authorized agents, officers, officials and employees (Indemnitees) from and against any and all claims, demands, suits, damages, liabilities, losses, accidents, casualties, occurrences, claims and payments, including attorneys' fees arising from or relating to the construction, presence, existence, repair, maintenance, relocation or removal of the sewer line by Property Owners or the City. In the event a claim is asserted against the Indemnitees, the City shall promptly notify Property Owners and Property Owners shall defend, at their own expense, any suit based on such claim. If any judgment or claims against the Indemnitees shall be allowed, Property Owners shall pay for all costs and expenses in connection therewith. This section shall not apply to any claims, demands, suits, damages, liabilities, losses, accidents, casualties, occurrences, claims and payments, including attorneys' fees arising from the sole or active negligence or willful misconduct of the Indemnitees.

SECTION 9: SEVERABILITY

The provisions of this Agreement shall be severable and if any phrase, clause, section, subsection, paragraph, subdivision, sentence or provision is adjudged invalid or unconstitutional by a court of competent jurisdiction, this shall not affect or invalidate the remainder of any phrase, clause, section, subsection, paragraph, subdivision, sentence or provision of this Agreement.

SECTION 10: RECORDATION

This Agreement shall be recorded in the County Recorder's Office of the County of San Mateo, California at the Property Owners' expense if such is necessary.

SECTION 11: EFFECTIVE DATE AND MODIFICATION

This Agreement is effective upon the date of execution as stated at the beginning of this Agreement. This Agreement shall not be modified except by written instrument executed by the City and Property Owners. Such modifications shall be effective upon the date of execution and shall be recorded in accordance with Section 10 above.

IN WITNESS WHEREOF, the parties have caused the Agreement to be executed on the day and year first above written.

PROPERTY OWNERS

CITY OF BRISBANE
A Municipal Corporation

Pirouz Daftarian

Clayton Holstine
City Manager

Tara Daftarian

APPROVED AS TO FORM:

Michael Roush
Legal Counsel

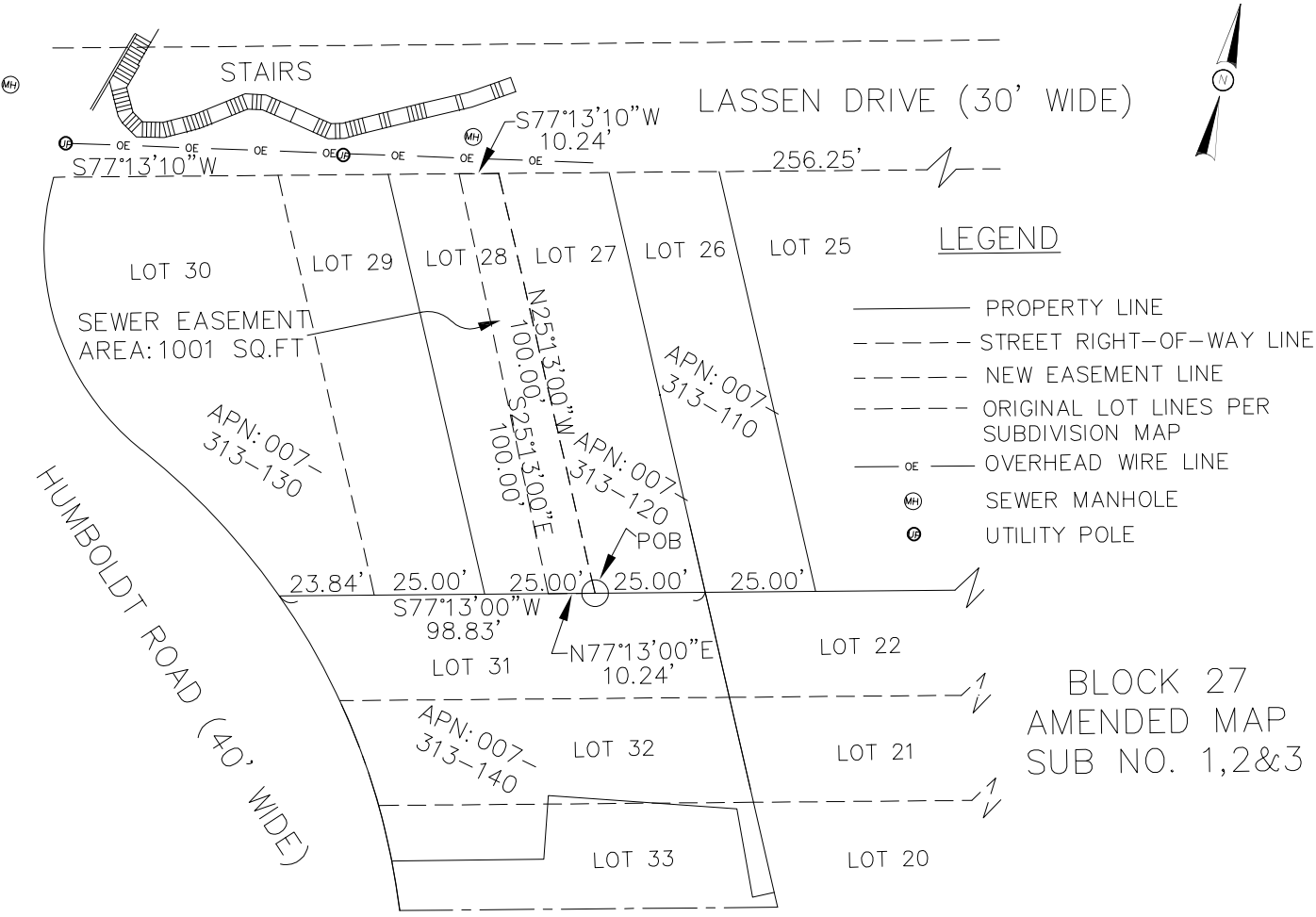
EXHIBIT A

Legal Description for Non-Exclusive Sewer Easement

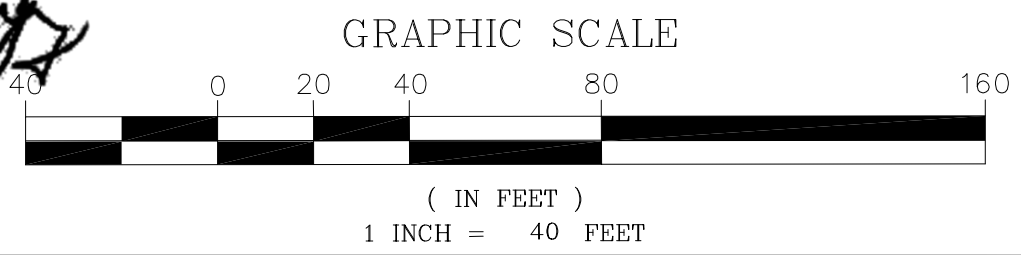
Real Property in the City of Brisbane, County of San Mateo, State of California described as follows:

Beginning at the Northeasterly corner of Lot 31 on Humboldt Road as shown on the original map recorded in Map Book 6 at Page 45 recorded October 5, 1908, thereon South 77°13'00" West 25.00 feet to the point of beginning; thence North 25 °13'00" West 100 feet; thence South 77 °13'10" West 10.24 feet; thence South 25 °13'00" East 100 feet; thence North 77°13'00" East 10.24 feet to the point of beginning.

This easement lies within APN: 007-313-120, consisting of 1001 square feet



BLOCK 27
 AMENDED MAP
 SUB NO. 1,2&3



DOMINGUEZ ASSOCIATES LLC 4360 COOPER HOLLOW RD. DALLAS, OR. 97338 (650) 359-0947 carlos@sanfranmail.com	EXHIBIT B NON-EXCLUSIVE SEWER EASEMENT APN: 007-313-120	
	FOR PIROUZ DAFTARIAN & TARA DAFTARIAN 303 HUMBOLDT ROAD BRISBANE, CA 94005	DATE 10-1-21
	MAP BOOK 6 AT PAGE 45	SCALE 1" = 40' SHEET 2 OF 2

RESOLUTION NO. 2021-77

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE
CONVEYING AN EASEMENT TO PIROUZ DAFTARAIN AND TARA DAFTARIAN**

WHEREAS, Pirouz Daftarian and Tara Daftarian are the owners of certain land-locked real property located at 303 Humboldt Road, Brisbane, San Mateo County, California; and

WHEREAS, the City of Brisbane is the owner of vacant real property located immediately adjacent to the property owned by Daftarians; and

WHEREAS, the City received a request from the Daftarians to grant a sanitary sewer easement on City property; and

WHEREAS, the requested easement is described in the attached Exhibit A and shown on Exhibit B; and

WHEREAS, the city owned property would not be unreasonably encumbered if this easement were granted; and

WHEREAS, it is in the public interest for the City to grant this easement to Pirouz Daftarian and Tara Daftarian.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BRISBANE
RESOLVES AS FOLLOWS:**

Section 1. The City consents to, approves and authorizes conveying to Pirouz Daftarian and Tara Daftarian, in the form of the Easement Deed attached hereto, the property described in Exhibit A to the Easement Deed and depicted in Exhibit B to the Easement Deed, and the City Manager is authorized to sign the Easement Deed.

Section 2. This resolution shall take effect immediately upon its adoption.

Karen Cunningham, Mayor

* * * *

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Brisbane held on the ninth day of December 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Ingrid Padilla, City Clerk

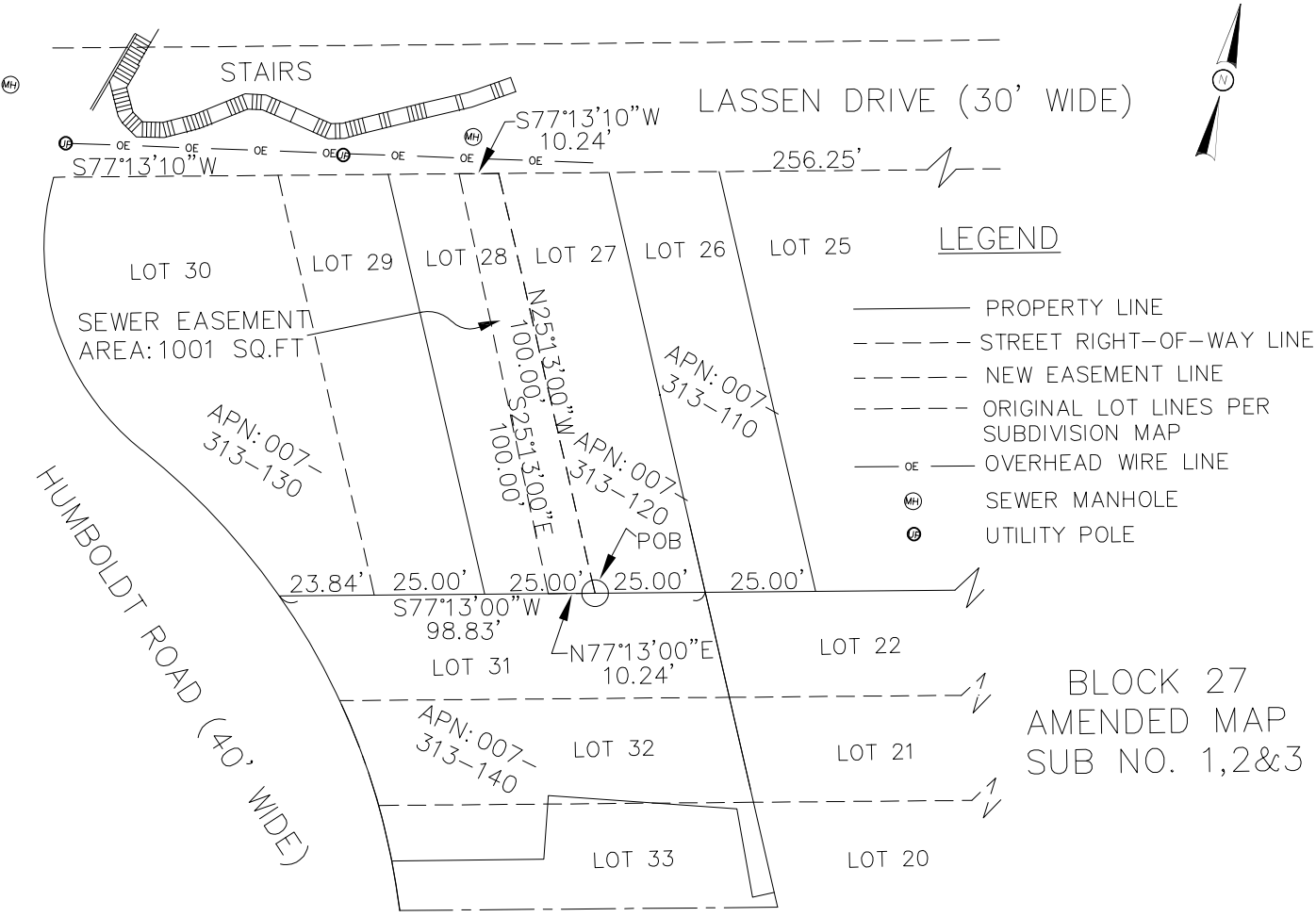
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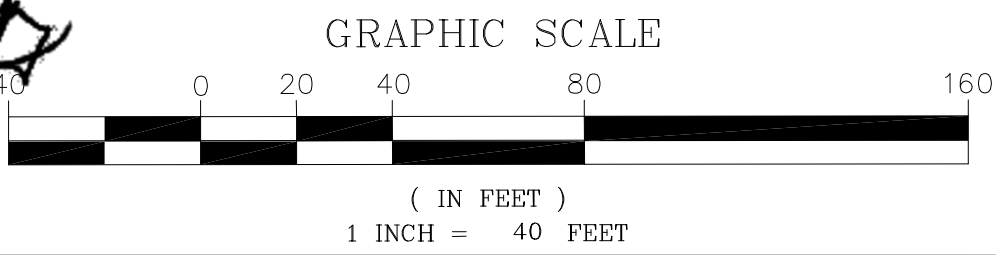
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This easement lies within APN: 007-313-120, consisting of 1001 square feet



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 AMENDED MAP
 SUB NO. 1,2&3



DOMINGUEZ ASSOCIATES LLC 4360 COOPER HOLLOW RD. DALLAS, OR. 97338 (650) 359-0947 carlos@sanfranmail.com	EXHIBIT B NON-EXCLUSIVE SEWER EASEMENT APN: 007-313-120	
	FOR PIROUZ DAFTARIAN & TARA DAFTARIAN 303 HUMBOLDT ROAD BRISBANE, CA 94005	DATE 10-1-21
	MAP BOOK 6 AT PAGE 45	SCALE 1" = 40' SHEET 2 OF 2

RECORDED AT THE REQUEST OF
AND RETURN TO:

CITY CLERK
CITY OF BRISBANE
50 PARK PLACE
BRISBANE, CA 94005

EXEMPT FROM RECORDING FEES
GOVERNMENT CODE, SECTIONS 6103/27383

No transfer tax applicable; grant of easement.

EASEMENT DEED

City of Brisbane, a municipal corporation, hereby grants to Pirouz Daftarian and Tara Daftarian a non-exclusive easement for sanitary sewer purposes in a portion of Grantor's property in the City of Brisbane, County of San Mateo, State of California as described in Exhibit A and shown on Exhibit B, attached hereto and incorporated herein by reference.

Grantor, City of Brisbane, consented to, approved and authorized this grant of easement pursuant to Resolution No. 2021-77 and directing the City Clerk to record a certified copy of the Resolution.

Date: CITY OF BRISBANE, a municipal corporation

City Manager

I hereby certify that a resolution was adopted on the ninth day of December 2021 by the City Council of the City of Brisbane authorizing this grant of easement.

Ingrid Padilla, City Clerk

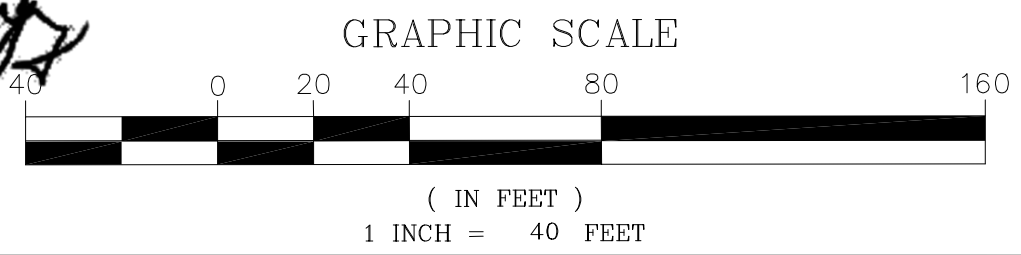
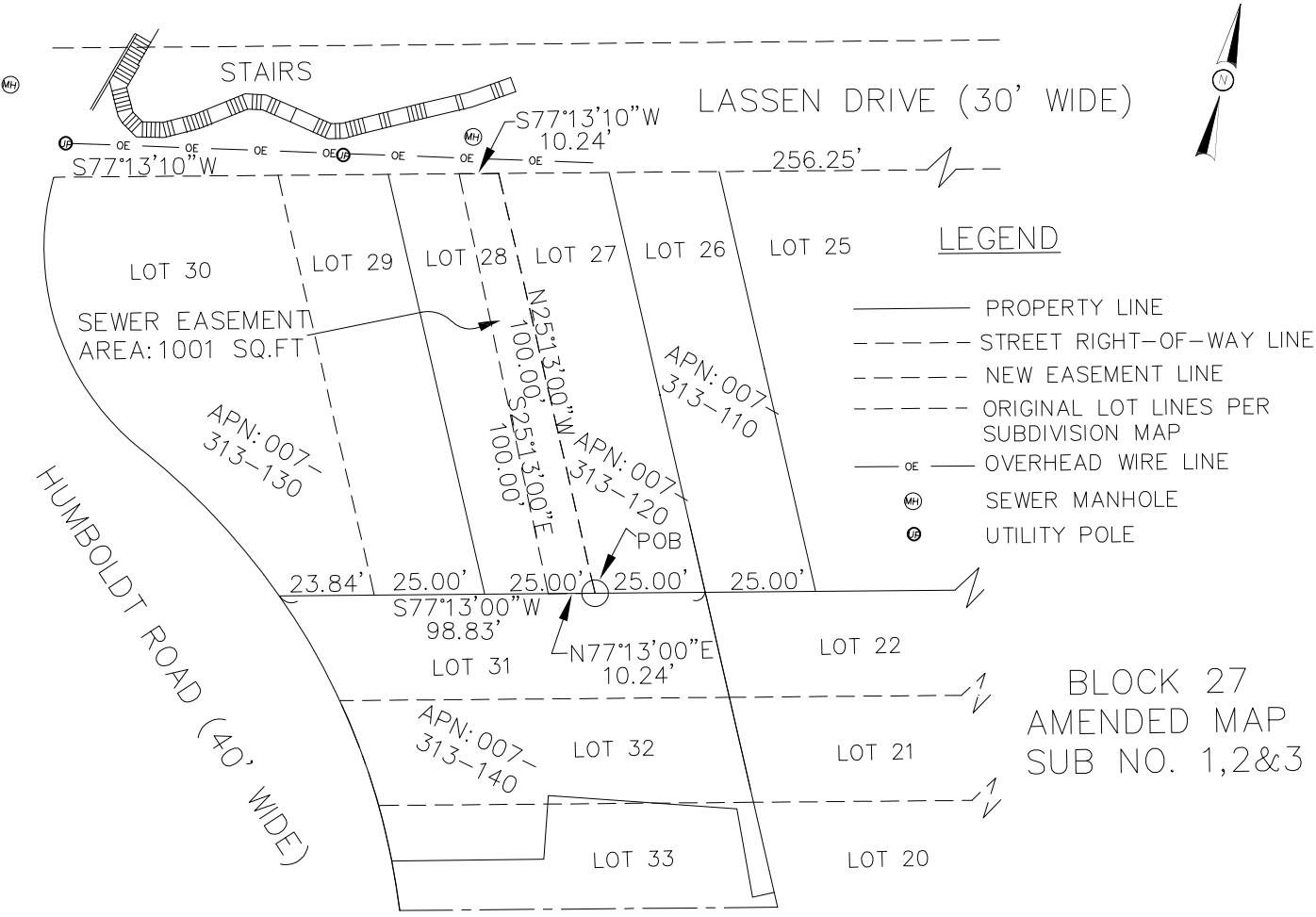
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